IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

FRIDAY, THE 3RD AUGUST 2007 / 12TH SRAVANA 1929

CRP.No. 1092 of 2004()

E.OP.3/2000 of ADDL. DISTRICT COURT, PARAVUR
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REVN. PETITIONER: RESPONDENT:

THE KERALA STATE ELECTRICITY BOARD
REP. BY ITS SECRETARY, THIRUVANANTHAPURAM.

BY ADV. SRI.A.SUDHI VASUDEVAN, SC, KSEB
SRI.C.K.KARUNAKARAN, SC FOR KSEB

RESPONDENTS: PETITIONER:

BEENA MOHAN, W/O. MOHAN,
MENACHERY HOUSE, ANGAMALY
(D/O. GEORGE, THOTTUNGAL THOMBRA HOUSE).

BY ADV. SRI.PAUL JACOB
SRI.P.SREEKUMAR
SRI.PEARI K.DAVIS
SRI.P.K.SAJEEVAN
SRI.K.S.MANU (PUNUKKONNOOR)

THIS CIVIL REVISION PETITION HAVING BEEN FINALLY HEARD ON 03/08/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

CRP No.1092 OF 2004

ORDER ON CMP No.3145 OF 2004 IN CRP No.1092 OF 2004

DISMISSED

03.08.2007 SD/- PIUS C. KURIAKOSE, JUDGE

PIUS C. KURIAKOSE, J.

C.R.P. No. 1092 OF 2004

Dated this the 3rd day of August, 2007

O R D E R

This Civil Revision Petition is filed by the Kerala State Electricity Board impugning the order of the Additional District Judge, Paravur awarding a total amount of Rs.1,98,000/- as compensation on account of the injury sustained by the respondent due to the drawal of High Tension electricity lines through the respondent's property. Though compensation was claimed on various counts, the learned District Judge rightly found that the only count upon which the additional compensation could be awarded to the respondent was diminution of land value. The court found on the basis of the advocate commissioner's report and the testimony of the advocate commissioner who was examined as PW2 that roughly 46 cents of land belonging to the respondent has been affected. As regards the market value of the land in the locality, though the evidence of the respondent was to the effect that the same is Rs.50,000/- per cent and the petitioner produced two documents to substantiate that contention, the learned District Judge noticed that the written claim of the respondent was only Rs.20,000/- towards the land value and fixed the market value of the land affected at Rs.20,000/- per cent. Repelling the claim of the respondent that the percentage of

diminution should be at least 50 to 60%, the learned District Judge determined the percentage of the diminution at 20%. Thus compensation for diminution of land value was determined at Rs.4,000/- per cent.

2. I have heard the submissions of Sri.A.Sudhi Vasudevan, learned Standing Counsel for the Electricity Board and Sri. Paul Jacob, learned counsel for the respondent. Apart from addressing arguments on the basis of the various grounds raised, the learned Standing Counsel also submitted that the court below was not justified in awarding interest both pendente lite and post decree at the rate of 9%. The compensation determined by the District Court according to the learned Standing Counsel is highly excessive. The learned counsel for the respondent per contra would submit that the court below did not grant any amount towards the value of the trees and improvements removed by the K.S.E.B. A total extent of 50 cents of land belonging to the respondent has been rendered practically useless.

Having considered the rival submissions addressed at the Bar and having gone through the materials which were placed by either sides, I am of the view that the total extent of the land actually affected is only 45 cents. In all other respects there is no warrant at all for interfering with the impugned order. Thus the total compensation will

stand re-determined as Rs.1,80,000/-. I am not inclined to uphold the argument of the Electricity Board regarding the correct interest payable for the compensation determined. From the point of view of the Electricity Board, the transaction can be taken to be a commercial transaction. In that view of the matter, award of interest both pendente lite and future at 9% per annum was justified. Thus modifying the impugned order to the extent of reducing the total compensation payable to the respondent to Rs.1,80,000/- together with interest during the period and at the rates allowed by the learned District Judge himself, this CRP will stand allowed to the above limited extent.

PIUS C. KURIAKOSE, JUDGE

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